

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

VERSUS TECHNOLOGY, INC.,	)	
	)	
Plaintiff,	)	
v.	)	Civil Action No. 04-1231 (SLR)
	)	
RADIANCE, INC.	)	
	)	
Defendant.	)	

**RADIANCE, INC.'S OPPOSITION TO VERSUS TECHNOLOGY, INC.'S  
MOTION TO STRIKE AND PRECLUDE THE AFFIDAVIT AND  
UNPRODUCED DOCUMENTS FILED WITH RADIANCE'S REPLY BRIEF**

Radianse, Inc. ("Radianse") opposes Versus' Motion on the following grounds:

1. The documents attached as Exhibit A to Dr. Sims' Affidavit were provided in that Affidavit in response to Versus' assertion, in its Opposition to Radianse's Motion for Summary Judgment, challenging Dr. Sims' statement in his Report that his invention and that of James Welch predated the filing date of the '791 patent.
2. The documents attached to Dr. Sims' Affidavit as Exhibit A come from the files of Dr. Sims, and were never in the custody or control of Radianse. Consequently, they did not fall within the scope of Versus' document production requests to Radianse.
3. Versus failed to take the deposition of Dr. Sims during the time period scheduled by this Court for expert depositions.
4. In an effort to provide Versus with an opportunity to take Dr. Sims' deposition notwithstanding such failure, Radianse has agreed to produce Dr. Sims for his deposition, which will be taken by Versus on January 24, 2006, in advance of the scheduled hearing on Radianse's Motion for Summary Judgment. At that deposition, Versus will have an adequate opportunity to

inquire regarding the documents attached to Dr. Sims' Affidavit as Exhibit A, as well as the documents referred to in Dr. Sims' Report that also have been challenged by Versus in its pleadings. In its deposition of Dr. Sims, Versus can inquire regarding the authenticity of the documents in question, thus rendering moot its current objection.

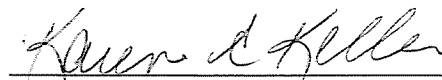
5. Dr. Sims has adequately authenticated the documents attached as Exhibit A in his Affidavit.

For the reasons set forth above, Radianse respectfully requests that this Court deny Versus' Motion to Strike.

Respectfully submitted,

RADIANCE, INC.

By its attorneys,



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Dated: January 23, 2006

**CERTIFICATE OF SERVICE**

I, Karen E. Keller, Esquire hereby certify that on January 23, 2006, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

George Pazuniak, Esquire  
Connolly Bove Lodge & Hutz LLP  
The Nemours Building  
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Wilmington, DE 19801

I further certify that on January 23, 2006, I caused a copy of the foregoing document to be served by hand delivery on the above-listed counsel of record.

YOUNG CONAWAY STARGATT & TAYLOR, LLP



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